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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,817	08/29/2003	Jack T. Baker	9687-5 (37786-186516)	2480

23973 7590 02/03/2006

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EXAMINER
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HALPERN, MARK

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/652,817	<b>Applicant(s)</b> BAKER, JACK T.	
	<b>Examiner</b> Mark Halpern	<b>Art Unit</b> 1731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10-12, 14-25, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 and 14-22 is/are allowed.
- 6) ☒ Claim(s) 10-12, 23-25, 29, 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/4/06</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1) A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/19/2006, has been entered.

In Amendment received 1/19/2006, claims 1, 5, 10, 14, 22-23 are amended, claims 27-28 are cancelled, and new claims 29-30 are offered for consideration.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2) Claims 10-12, 23-25, 29-30, are rejected under 35 U.S.C. 102(b) as being anticipated by Prough (5,547,546).

Claims 10, 12, 23, 25, 29-30: Prough discloses a continuous digester system (as shown in Figure 1) that includes a chip bin 10 into which chips are introduced through the top inlet 31 and are discharged through the bottom outlet 32 to a digester. The chip bin is constructed of two parts, the upper part located above the vibrating cone baffle

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assembly, Vibra-Bin®, and the lower part, located below the Vibra-Bin®. The lower part of the bin is tapered. Steam is introduced into the bin through downwardly by angled pipe 22 located in the upper part of the bin and from upwardly angled pipe 28 located in the lower part of the bin, around the periphery of the tapered part of the bin. A temperature sensor probe 25 is located in the chip bin. The sensing portion 41 of probe 25 is about 10 to 20 feet long and the probe bottom 42 is long enough to sense to about five feet below the level (top) of the chips in the chip column. Since the probe 25 goes across the level of the chip column sensing area, it should be as long as the typical level variation of the chips, that is, about ten to fifteen feet (Abstract, col. 1, lines 43-54, col. 5, lines 29-44, col. 6, lines 43-65, Fig. 1). An inline temperature sensor is located in the steam line 28 into the lower part of the chip bin, as shown in Figure 1.

Claims 11, 24: flow sensors and level controllers are disclosed. The controllers are interlocked with the steam application (col. 5, line 29 to col. 6, line 68).

***Allowable Subject Matter***

3) Claims 1-8, 14-22, are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for indicating allowable subject matter is that the cited prior art does not disclose a chip bin: wherein steam orifices providing steam into the bin are located above a level sensor arranged to indicate the level of chips in the bin (claims 1,

5, 14); wherein steam orifices providing steam into the bin are located above a temperature sensor arranged to indicate the temperature of chips in the bin (claim 22);

### ***Response to Amendment***

- 4) Claims 1-2, 7-12, 14-15, 20-25, 27-28, rejection under 35 U.S.C. 103(a) as being unpatentable over Prough, is withdrawn in view of amended and cancelled claims.
- 5) Claims 3, 16, rejection under 35 U.S.C. 103(a) as being unpatentable over Prough in view of Leask, is withdrawn in view of amended and cancelled claims.
- 6) Claims 4-6, 17-19, rejection under 35 U.S.C. 103(a) as being unpatentable over Prough in view of Johanson, is withdrawn in view of amended and cancelled claims.
- 7) Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

- 8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 571-272-1190. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "M. Halpern", with a stylized, flowing script.

Mark Halpern  
Primary Examiner  
Art Unit 1731